

**Psychiatric Security Review Board and
Oregon Health Authority - Addictions and Mental Health Division**

Report on Implementation of SB 420

March 1, 2012

The Oregon Health Authority, Addictions and Mental Health (AMH) Division and the Psychiatric Security Review Board (PSRB) respectfully submit the following SB 420 (2011) implementation update. SB 420 requires AMH and PSRB to report on implementation to the Legislative Assembly on March 1, 2012. The last implementation update was submitted on November 1, 2011.

Background

Senate Bill 420 was passed in the 2011 regular session and took effect on January 1, 2012. This legislation changes the dispositional phase of the legal process for those who successfully assert the insanity defense. It creates a two tier system based on the nature of the offense for which an individual is found guilty except for insanity of a crime. In addition the individual must continue to be affected by a mental disease or defect which, when active, causes him/her to pose a substantial danger to others. Those who commit Tier 1 offenses (i.e., aggravated murder or Ballot Measure 11 crimes) will continue to be placed under the jurisdiction of the Psychiatric Security Review Board (PSRB). Jurisdiction of Tier 2 offenders (i.e., non-Ballot Measure 11 crimes) who are committed to the Oregon State Hospital (OSH) are placed under the jurisdiction of the Oregon Health Authority (OHA). OHA will be responsible for conducting the statutorily required hearings and making decisions regarding placement of the Tier 2 individuals with input from PSRB regarding advisable conditions of release. As is the case with the PSRB, OHA shall consider public safety as its primary concern when making these determinations. Once conditionally released to the community, jurisdiction of Tier 2 offenders will transfer to the PSRB for monitoring and supervision responsibility.

Progress to date

Since the report submitted on November 1, 2011, OHA has successfully implemented the following:

- Selected panelists and generated contracts for the Oregon Health Authority's State Hospital Review Panel (SHRP). Members of this panel will conduct hearings and make decisions related to placement of Tier 2 individuals. Members include:
 - Raymond W. Myers, Attorney
 - Mark Diamond, MD, Psychiatrist
 - Gregory Czar, PhD, PC, Psychologist
 - Diana Karpinski, Probation Officer
 - Melanie Zermer, Public Member
- Completed the training of panelists, including training on how to conduct a hearing;
- Hired the paralegal and the executive support staff for the review panel; and
- Filed temporary rules effective on January 1, 2012 in order to comply with the implementation date.

On January 1, 2012, the PSRB transferred 118 Tier 2 clients who were residents of OSH to the jurisdiction of the SHRP. SHRP has held sixteen hearings since January 1, 2012. Thirteen of which were at the request of tier two patients and three were statutorily required. In order to ensure that all patients receive their statutorily required hearings in a timely manner, SHRP has scheduled 54 hearings through July 20, 2012. Under SB 420, when a patient is conditionally released by SHRP, the patient is released into the community and transferred to the jurisdiction of the PSRB. PSRB may revoke the release if the patient does not comply with the conditions of release, in which jurisdiction is transferred back to SHRP.

Since January 1, 2012 (when SB 420 took effect):

- Four new individuals have been found guilty except for insanity of Tier 2 crimes and placed under the jurisdiction of SHRP.
- One patient has been conditionally released by the SHRP.
- Four patients have been approved for conditional release when a bed becomes available in the community.
- Ten patients have been approved for community evaluations by the SHRP. Before a patient may be conditionally released, a community evaluation must be conducted.
- Five patients have been discharged from the state hospital by the SHRP because the term of their commitment ended. When the patient's term of commitment ends he or she is no longer committed to the hospital, to SHRP, or to the PSRB. These discharges would have happened regardless of SB 420 being implemented.
- Five Tier 2 patients have had their conditional release revoked by the PSRB. These revocations are not impacted by or a result of SB 420.

OHA and PSRB have been conducting outreach and training on SB 420 and SHRP, including presentations to the Executive Committee of the Oregon District Attorney Association, to county bar associations, and to the Association of Oregon Community Mental Health Programs.

Next Steps

AMH will convene a full Rule Advisory Committee (RAC) to develop permanent rules which will be filed by July of 2012. The RAC will meet during March and April in order to receive input on the rules that will govern the SHRP.

The PSRB and the OSH Legal Affairs Department will also continue to provide presentations and training on the implementation of SB 420 and the SHRP to judges, district attorneys and defense attorneys throughout the state.